

## **ACCE Business Meeting Minutes**

**Hyatt Manchester San Diego, CA**

**7/23/15**

**3:30PM**

Meeting Called to Order by Public Sector Chairman John Harkins & Acting Private Sector Chairman Bruce Hollands

- 1. The Open and Fair Competition Resolution for Municipal [or Local] Water and Wastewater Projects**
  - **Policy passed unanimously**
- 2. Regulation Containers to Protect Business and Consumer Choice**
  - **(5) Amendments passed unanimously**
  - **Policy passed unanimously**
- 3. Drone/UAV Ordinance (First reading)**
- 4. ACCE Director Jon Russell gave an update on ACCE operations**

Meeting Adjourned

## Regulating Containers to Protect Business and Consumer Choice

### *Summary*

The municipal level of government often is the best place to address matters of importance to local residents. In order to protect economic choices for consumers and merchants; local budgets being strained already, the cost of regulation, inspection, and enforcement should not be borne by local families, merchants, and taxpayers.

### **Model Resolution**

#### **Section 1. {Title}**

This resolution may be cited as the Regulating Containers to Protect Businesses and Consumer's Choice Resolution.

#### **Section 2.**

##### **{Definitions}**

(A) Defines "containers" as: reusable bags, disposable bags, boxes, cups, and bottles that are made of cloth, paper, plastic, extruded polystyrene, or similar materials, which are designed for one-time use or for transporting merchandise or food from food and retail facilities.

#### **Section 3. {Regulating Containers to Protect Businesses and Consumers}**

- [Insert Jurisdiction] finds that:
- Prudent regulation of containers is crucial to the welfare of [insert state's] economy;
- Retail and food establishments are sensitive to the costs and regulation of containers;
- If the individual political subdivisions of the state regulate such containers, there exists the potential for confusing and varying regulations that could lead to unnecessary increased costs for retail and food establishments to comply with such regulations; and,
- Consumers are adversely affected by varying regulations on containers through inconsistent availability and cost of said containers from locality to locality.
- The free market is the best arbiter of the container.

#### **Section 3. {Severability clause}**

#### **Section 4. {Repealer clause}**

#### **Section 5. {Effective date}**

*Approved by American City County Exchange at the ALEC Annual Meeting on Thursday July 23, 2015 and Friday, July 24, 2015. Approved by ALEC Board of Directors on September 4, 2015.*

## The Open and Fair Competition Resolution for Municipal [or Local] Water and Wastewater Projects

### *Summary*

According to the Environmental Protection Agency (EPA), underground piping represents 60 percent of the total spending for water and wastewater infrastructure. Updating procurement policies for water and sewer piping will help municipalities realize significant costs savings and ensure that funds for underground infrastructure are spent more cost-effectively. It is the intention of this resolution to ensure that all proven and acceptable piping materials are included in all bids for water and wastewater projects. All pipe materials should be qualified and selected based on sound engineering principles. The language in the resolution continues to allow autonomy for design engineers, but simply requires the decisions to be governed by established technical standards. By allowing contractors to bid on alternate pipe materials that meet technical performance criteria, the municipality will instill accountability in the procurement process, which will reduce costs, improve quality and foster innovation. This promotion of free competition will ensure limited government resources are being used to the greatest advantage. The goal is to construct a project at the best price and best value for system customers and taxpayers.

### *Model Policy*

{Title, Enacting clause, etc.}

Be it enacted by the [Insert jurisdiction].

### **Section 1. {Definitions}**

(A) "Governmental Agency" refers to any county government or municipality.

(B) "Acceptable Piping Material" refers to piping material that meets current and recognized standards as issued by the American Society for Testing and Materials (ASTM) and the American Water Works Association (AWWA).

### **Section 2. {Procurement Procedures for Water and Wastewater Piping}**

(A) Government agencies shall engage in open competitive bidding to study, plan, design, construct, develop, finance, maintain, rebuild, improve, repair, or operate water and wastewater utilities; and

(B) All procurement transactions for piping material shall be conducted in a manner that provides for open and free competition. All acceptable piping materials shall be



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considered in the procurement process. Procurement procedures shall not restrict or eliminate competition.

(C) Unlawful restrictions on competition include, but are not limited to specifying only a brand name product or particular type of material instead of either allowing an equal product to be offered, or describing the performance of the relevant requirements of the procurement.

(D) The specifications for a public works project must provide that all acceptable piping materials may be acquired for and used in the project.

(E) Municipal design engineers shall have the autonomy to set technical material performance criteria based on specific project conditions.

(F) The use of any particular pipe material shall not be mandated, nor shall the ability of project engineers to use any piping material that meets specifications be restricted.

(G) In addition, the design engineer shall consider acceptable piping material to be suitable for the project only if the use of that material is commensurate with sound engineering practices and project requirements.

**Section 3. {Severability clause}**

**Section 4. {Repealer clause}**

**Section 5. {Effective date}**

## Local Right to Work Ordinance

### **Summary**

American City County Exchange's model Local Right to Work Ordinance provides that no employee need join or pay dues to a union, or refrain from joining a union, as a condition of employment. The ordinance establishes penalties and remedies for violations of the ordinance's provisions.

### **Model Policy**

#### **{Title, enacting clause, etc.}**

**Section 1. { Title.}** This ordinance may be cited as the Local Right to Work Ordinance.

**Section 2. {Declaration of public policy.}** It is hereby declared to be the public policy of the (*Insert City or County*), in order to maximize individual freedom of choice in the pursuit of employment and to encourage an employment climate conducive to economic growth, that the right to work shall not be subject to undue restraint or coercion. The right to work shall not be infringed or restricted in any way based on membership in, affiliation with, or financial support of a labor organization.

**Section 3. {Labor organization.}** The term "labor organization" means any organization of any kind, or agency or employee representation committee or union, that exists for the purpose, in whole or in part, of dealing with employers concerning wages, rates of pay, hours of work, other conditions of employment, or other forms of compensation.

**Section 4. {Freedom of choice guaranteed, discrimination prohibited.}** No person shall be required, as a condition of employment or continuation of employment:

(A) to resign or refrain from voluntary membership in, voluntary affiliation with, or voluntary financial support of a labor organization;

(B) to become or remain a member of a labor organization;

(C) to pay any dues, fees, assessments, or other charges of any kind or amount to a labor organization;

(D) to pay to any charity or other third party, in lieu of such payments, any amount equivalent to or a pro-rata portion of dues, fees, assessments, or other charges regularly required of members of a labor organization; or

(E) to be recommended, approved, referred, or cleared by or through a labor organization.

**Section 5. {Voluntary deductions protected.}** It shall be unlawful to deduct from the wages, earnings, or compensation of an employee any union dues, fees, assessments, or other charges to be held for, transferred to, or paid over to a labor organization, unless the employee has first presented, and the employer has received, a signed written authorization of such deductions,

which authorization may be revoked by the employee at any time by giving written notice of such revocation to the employer.

**Section 6. {Agreements in violation, and actions to induce such agreements, declared illegal.}** Any agreement, understanding, or practice, written or oral, implied or expressed, between any labor organization and employer that violates the rights of employees as guaranteed by provisions of this chapter is hereby declared to be unlawful, null and void, and of no legal effect. Any strike, picketing, boycott, or other action by a labor organization for the sole purpose of inducing or attempting to induce an employer to enter into any agreement prohibited under this chapter is hereby declared to be for an illegal purpose and is a violation of the pro-visions of this chapter.

**Section 7. {Coercion and intimidation prohibited.}** It shall be unlawful for any person, labor organization, or officer, agent or member thereof, or employer, or officer thereof, by any threatened or actual intimidation of an employee or prospective employee, or an employee's or prospective employee's parents, spouse, children, grand-children, or any other persons residing in the employee's or prospective employee's home, or by any damage or threatened damage to an employee's or prospective employee's property, to compel or attempt to compel such employee to join, affiliate with, or financially support a labor organization or to refrain from doing so, or otherwise forfeit any rights as guaranteed by provisions of this chapter. It shall also be unlawful to cause or attempt to cause an employee to be denied employment or discharged from employment because of support or nonsupport of a labor organization by inducing or attempting to induce any other person to refuse to work with such employees.

**Section 8. {Penalties.}** Any person who directly or indirectly violates any provision of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine not exceeding (*insert amount*) or imprisonment for a period of not more than (*insert time period*), or both such fine and imprisonment.

**Section 9. {Civil remedies.}** Any employee harmed as a result of any violation or threatened violation of the provisions of this chapter shall be entitled to injunctive relief against any and all violators or persons threatening violations and may in addition thereto recover any and all damages, including costs and reasonable attorney fees, of any character resulting from such violation or threatened violation. Such remedies shall be independent of and in addition to the penalties and remedies prescribed in other provisions of this chapter.

**Section 10. {Duty to investigate.}** It shall be the duty of the prosecuting attorneys of each county to investigate complaints of violation or threatened violations of this chapter and to prosecute all persons violating any of its provisions, and to take all means at their command to ensure its effective enforcement.

**Section 11. {Prospective application.}** The provisions of this chapter shall apply to all contracts entered into after the effective date of this chapter and shall apply to any renewal or extension of any existing contract.



**Section 12.** An emergency existing therefore, which emergency is hereby declared to exist, this ordinance shall be in full force and effect on and after its passage and approval.

**Section 13. {Severability clause.}**

**Section 14. {Repealer clause.}**

**Section 15. {Effective date.}**

*Approved by the ALEC Board of Directors January 9, 2015.*



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## American City County Exchange

ACCE Policy Summit | Scottsdale, Arizona

Friday, December 4, 2015

9:30AM - 10:30 AM

**9:30 AM**

**1. Call to Order**

Welcome and Introductions

**1.1 Approval of Minutes from ACCE Annual Meeting 2015**

**2.0 Changes to the Agenda**

**3.0 New member introductions**

**4.0 Election to fill the unexpired term of Public Sector National Chair**

Presentations and Model Policy

**10:00 AM**

**5.0 Model Policy Consideration: ACCE Principles of Taxation**

**10:20 AM**

**5.1 Model Policy Consideration: Local Tax Payer Bill of Rights**

**10:25 AM**

**6.0 For the Good of the Order**

**10:30 AM**

**7.0 Adjournment**

## ACCE Principles of Short Term Housing Rental Regulations

Short-term housing rentals are becoming an important component of the travel and tourism economy in many communities throughout the country. Recently, some jurisdictions have passed -- or are considering the passage of -- onerous and burdensome regulations for short-term rentals, severely threatening this important new industry. As advances in technology have allowed owners, managers, and hosts to more easily connect with travelers looking for alternative accommodations, short-term rentals have grown in popularity. Short-term rentals provide a flexible housing option that allows travelers to spend longer periods of time in communities, in turn increasing their contributions to local small businesses. As such, municipalities should embrace this economic opportunity by working with industry stakeholders to establish a reasonable framework for regulating short-term rental activity so that all may benefit. Successful short-term regulation allows for municipalities to easily identify and contact a short-term rental owner, make the tax collection and remittance obligations clear and reasonable, and ensure that short-term rentals remain an option for travelers. Furthermore, the most successful regulations balance the needs of long-term residents and the community as a whole.

### Guiding Principles of Short-Term Housing Rental Regulations

- Short-term rentals are a non-commercial activity considered under the same or similar guidelines and laws as those governing long-term residential properties.
- No additional laws or ordinances are necessary for dealing with neighborhood or nuisance issues, and the enforcement of existing municipal and city codes that apply to full-time residents is sufficient.
- Tax collection and remittance is not the responsibility of the platform or intermediary through which a short-term rental is located by a traveler or through which a reservation or payment is made. Tax collection and remittance may be offered to owners as an enhancement, but should never be mandated by a municipality.

- In cases where the registration of short-term rentals is desirable and includes the payment of an administrative or licensing fee, such fees shall be limited to a one time cost of \$100 or less and an annual renewal cost not to exceed \$25.
- Any short-term rental regulations should recognize the value of short-term rentals in providing flexible housing stock and legalize and formalize short-term rentals as a unique and valuable alternative for travelers.
- Short-term rental policies should be developed through an open and transparent dialogue among policymakers, industry stakeholders, property owners and the public.

## **State Sovereignty through Local Coordination Act**

### ***Model Policy***

Be it enacted by the Legislature of the State of {insert state}:

**Section 1.** Title \_\_, chapter \_\_, article \_\_, \_\_\_\_\_

Revised Statutes, is amended by adding section \_\_\_\_\_, to read:

Federal Regulations; Local Coordination for Cities, Towns, Counties, and Special Districts

**(A) Definitions.**

(1) "Coordinate" means the action necessary to achieve coordination.

(2) "Coordination" means the process by which the federal or state government seeks in good faith to reach consistency between a federal or state regulation, rule, plan or policy and a city, town, county, or special district law, regulation, plan or policy that is less restrictive than the federal or state regulation, rule, plan or policy.

(3) "Less restrictive" means a city, town, county, or special district law, regulation, plan or policy imposes or would impose less of a burden on the exercise of rights, privileges or immunities enjoyed by individuals, organizations and businesses within the city's or town's jurisdictional boundaries.

**(B) Demand.** If a city, town, county, or special district has laws, regulations, plans or policies that are less restrictive than a federal or state regulation, rule, plan or policy, the city, town, county or special district shall demand by any lawful means that the federal or state government coordinate with the city, town, county, or special district before the federal or state government implements, enforces, expands or extends the federal or state regulation, rule, plan or policy within the city's, town's, county's, or special district's jurisdictional boundaries. This subsection is mandatory unless the city, town, county, or special district specifically votes to not demand coordination at a duly noticed public hearing.

**(C) Litigation.** Unless its elected public body shall vote against authorizing such litigation at a duly noticed public hearing, if the federal government fails to coordinate in good faith with the city, town, county, or special district after demand has been made, the city, town, county, or special district shall authorize appropriate litigation to enforce its coordination rights and powers.

(D) Taxpayer Standing. Any taxpayer residing or doing business within the jurisdiction of the relevant city or town shall have standing to enforce the obligations created by this statute by way of special action filed in state court against the relevant city or town, without first exhausting any administrative remedy, if the relevant city, town, county, or special district fails to discharge its obligations under this statute within sixty (60) days after the taxpayer serves each member of the relevant elected local public body with a written demand that the city or town comply with this statute. To be effective, the written demand must specify the federal and local laws, regulations, plans or policies, with which coordination ought to be sought by the city, town, county, or special district.

*Approved by ALEC Board of Directors on September 19, 2010.*